



July 16, 1999

Ms. Lilia Ledesma-Gonzalez
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR99-1996

Dear Ms. Ledesma-Gonzalez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 127629.

The City of McAllen (the "city") received a request for certain police records. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code and section 51.14(d) of the Family Code. We have considered the exceptions you claim and reviewed the submitted information.

You claim that the requested records must be withheld because they involve juvenile conduct that occurred before January 1, 1996. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 51.14(d) of the Family Code was repealed by the Seventy-fourth Legislature. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2590. Currently, section 58.007 of the Family Code provides that law enforcement records concerning a child must not be publicly disclosed. Family Code § 58.007(c). However, the most current bill which amended section 58.007(c) provides that "[c]onduct that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose." Act of June 2, 1997, 75th Leg., R.S., ch. 1086, § 53(b), 1997 Tex. Gen. Laws 4179, 4199.

It appears and you represent that, at the time the conduct occurred here, the applicable law in effect was former Family Code section 51.14 which provides, in pertinent part:

(d) Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records [concerning a child] are not open to public inspection nor may their contents be disclosed to the public.

Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852, *repealed by* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2590. In Open Records Decision No. 181 at 2 (1977), this office held that former section 51.14(d) excepts police reports which identify juveniles or furnish a basis for their identification. *See also* Open Records Decision No. 394 at 4-5 (1983) (applying former Fam. Code § 51.14(d) to "police blotter" and related information). You do not indicate that the records at issue here relate to charges for which the juvenile was transferred under section 54.02 of the Family Code to a criminal court for prosecution, or that article 15.27 of the Code of Criminal Procedure applies. Moreover, it does not appear that any of the exceptions to former section 51.14(d) apply to the requestor. *See* Act of May 22, 1993, 73d Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852 (repealed 1995) (formerly Fam. Code § 51.14(d)(1), (2), (3)). Accordingly, we conclude that you must withhold the requested records under section 552.101.

Because section 552.101 of the Government Code is dispositive, we need not address your section 552.108 claim. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Sue M. Lee
Assistant Attorney General
Open Records Division

SML\nc

Ref: ID# 127629

encl: Submitted documents

cc: Ms. Heidi Moseley
Jenkins & Gilchrist
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(w/o enclosures)